

Noah A. Katsell (Bar No. 217090)  
noah.katsell@dlapiper.com  
**DLA PIPER US LLP**  
401 B Street, Suite 1700  
San Diego, CA 92101-4297  
Tel: 619.699.2700  
Fax: 619.699.2701

Amy Weinfeld Schulman (To apply pro hac vice)  
amy.schulman@dlapiper.com  
**DLA PIPER US LLP**  
1251 Avenue of the Americas  
New York, NY 10020-1104  
Tel: 212.335.4500  
Fax: 212.335.4501

Attorneys for Defendant  
Kraft Foods Global, Inc.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

ADRIANNE SMITH, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

v.

KRAFT FOODS GLOBAL, INC., a  
Delaware corporation,

Defendant.

CASE NO. 07 CV 2192 BEN (WMC)

Assigned to Hon. Roger T. Benitez

**DEFENDANT KRAFT FOODS GLOBAL,  
INC.'S NOTICE OF MOTION AND  
MOTION TO DISMISS FIRST AMENDED  
COMPLAINT**

[Filed concurrently with (1) Memorandum of  
Points and Authorities in Support of Motion to  
Dismiss First Amended Complaint and  
(2) Request for Judicial Notice]

Date: May 19, 2008  
Time: 10:30 a.m.  
Place: Courtroom 3

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on May 19, 2008, at 10:30 a.m., or as soon thereafter as the  
3 matter may be heard, in Courtroom 3 of the above-entitled Court, located at 940 Front Street, San  
4 Diego, California 92101, Defendant Kraft Foods Global, Inc., will and hereby does move the  
5 Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an Order dismissing Plaintiff's  
6 First Amended Complaint in its entirety with prejudice.

7 Dismissal is appropriate because each of Plaintiff's causes of action fails to allege facts  
8 sufficient to state a claim for relief against Defendant and because Plaintiff's entire First  
9 Amended Complaint is preempted by federal food labeling regulations promulgated by the Food  
10 and Drug Administration, 21 U.S.C. § 343(r).

11 This Motion is based upon this Notice of Motion and Motion, the accompanying  
12 Memorandum of Points and Authorities in support, the pleadings, papers, and exhibits filed or  
13 lodged in this action, all items which may be judicially noticed, all other matters that may  
14 appropriately be presented to the Court, and any oral argument as may be presented at the hearing  
15 of this Motion.

16 Dated: April 21, 2008

DLA PIPER US LLP

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18 s/Noah A. Katsell

19 Attorneys for Defendant Kraft Foods Global, Inc.  
20 E-mail: noah.katsell@dlapiper.com  
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